
From: Lori Wrotenbery <L.Wrotenbery@occemail.com>
Sent: Wednesday, February 20, 2013 6:37 PM
To: Dorsey, Nancy
Cc: Ron Dunkin; Charles Lord; Tim Baker; Dellinger, Philip; Graves, Brian; Leissner, Ray
Subject: RE: Oklahoma Oil and Gas Program Permitting

Generally speaking, hydraulic fracturing operations are regulated under the same statutes and by the same divisions and offices of the Commission as the injection wells. Look below for the principal rule concerning hydraulic fracturing operations. It includes references to other applicable rules.

Also, here is a link to the STRONGER report on our hydraulic fracturing regulations:

<http://www.occeweb.com/STRONGER%20REVIEW-OK-201-19-2011.pdf>. This report describes what we do in more detail. (Please note that the Commission has already amended its rules to address the recommendations in this report.)

165:10-3-10. Well completion operations

(a) **Hydraulic fracturing and acidizing.** In the completion of an oil, gas, injection, disposal, or service well, where acidizing or fracture processes are used, no oil, gas, or deleterious substances shall be permitted to pollute any surface or subsurface fresh water.

(b) **Chemical disclosure.** Within 60 days after the conclusion of hydraulic fracturing operations on an oil, gas, injection, disposal, or service well that is hydraulically fractured, the operator must submit information on the chemicals used in the hydraulic fracturing operation to the FracFocus Chemical Disclosure Registry or, alternatively, submit the information directly to the Commission. If the chemical disclosure information is submitted directly to the Commission under this subsection, the Commission will post such information on the FracFocus Chemical Disclosure Registry.

(1) The submission required by this subsection must include the following information:

- (A) the name of the operator;
- (B) the API number of the well;
- (C) the longitude and latitude of the surface location of the well;
- (D) the dates on which the hydraulic fracturing operation began and ended;
- (E) the total volume of base fluid used in the hydraulic fracturing operation;
- (F) the type of base fluid used;
- (G) the trade name, supplier, and general purpose of each chemical additive or other substance intentionally added to the base fluid; and
- (H) for each ingredient in any chemical additive or other substance intentionally added to the base fluid, the identity, Chemical Abstract Service (CAS) number, and maximum concentration. The maximum concentration for any ingredient must be presented as the percent by mass in the hydraulic fracturing fluid as a whole, and is not required to be presented as the percent by mass in any particular additive.

(2) For purposes of this subsection, the phrase "chemical additive or other substance intentionally added to the base fluid" refers to a substance knowingly and purposefully added to the base fluid and does not include trace amounts of impurities, incidental products of chemical reactions or processes, or constituents of natural materials.

(3) The operator is not responsible for inaccurate information provided to the operator by a vendor or service provider, but the operator is responsible for ensuring such information is corrected when any inaccuracy is discovered.

(4) If certain chemical information, such as the chemical identity, CAS number, and/or maximum concentration of an ingredient, is claimed in good faith to be entitled to protection as a trade secret under the Uniform Trade Secrets Act, 78 O.S. §§85-94, the submission to the FracFocus Chemical Disclosure Registry may note the proprietary nature of that chemical information instead of disclosing the protected information to the registry. The submission must include the name of the supplier, service company, operator, or other person asserting the claim that the chemical information is entitled to protection as a trade secret and provide the chemical family name or similar descriptor for the chemical if the chemical identity and CAS number are not disclosed. The Commission or the Director of the Oil and Gas Conservation Division may require the claimant to file with the Commission a written explanation in support of the claim.

(5) Nothing in this subsection restricts the Commission's ability to obtain chemical information under the provisions of OAC 165:10-1-6 or other applicable Commission rules.

(6) This subsection applies to:

- (A) horizontal wells that are hydraulically fractured on or after January 1, 2013; and
- (B) other wells that are hydraulically fractured on or after January 1, 2014.

(c) **Rule reference guide.** References to Commission rules regarding management of hydraulic fracturing operations are as follows:

- (1) Duties and authority of the Conservation Division (OAC 165:10-1-6).
- (2) Required approval of notice of intent to drill, deepen, re-enter or recomplete; Permit to Drill (OAC 165:10-3-1).
- (3) Surface and production casing (OAC 165:10-3-3).
- (4) Casing, cementing, wellhead equipment and cementing reports (OAC 165:10-3-4).
- (5) Swabbing and bailing (OAC 165:10-3-11).
- (6) Leakage prevention in tanks; protection of migratory birds (OAC 165:10-3-13).
- (7) Well site and surface facilities (OAC 165:10-3-17).
- (8) Completion reports (OAC 165:10-3-25).
- (9) Administration and enforcement of rules (OAC 165:10-7-2).
- (10) Cooperation with other agencies (OAC 165:10-7-3).
- (11) Water quality standards (OAC 165:10-7-4).
- (12) Prohibition of pollution (OAC 165:10-7-5).
- (13) Protection of municipal water supplies (OAC 165:10-7-6).
- (14) Informal complaints, citations, red tags and shut down of operations (OAC 165:10-7-7).
- (15) Scheduled monetary fines (OAC 165:10-7-9).
- (16) Use of noncommercial pits (OAC 165:10-7-16).
- (17) Surface discharge of fluids (OAC 165:10-7-17).
- (18) Discharge to surface waters (OAC 165:10-7-18).
- (19) One-time land application of water-based fluids from earthen pits and tanks (OAC 165:10-7-19).
- (20) Noncommercial disposal or enhanced recovery well pits used for temporary storage of saltwater (OAC 165:10-7-20).
- (21) Waste management practices reference chart (OAC 165:10-7-24).
- (22) One-time land application of contaminated soils and petroleum hydrocarbon based drill cuttings (OAC 165:10-7-26).
- (23) Application of fresh water drill cuttings by County Commissioners (OAC 165:10-7-28).
- (24) Application of freshwater drill cuttings by oil and gas operators (OAC 165:10-7-29).
- (25) Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas wells (OAC 165:10-7-32).
- (26) Use of commercial pits (OAC 165:10-9-1).
- (27) Commercial soil farming (OAC 165:10-9-2).
- (28) Commercial recycling facilities (OAC 165:10-9-4).
- (29) Duty to plug and abandon (OAC 165:10-11-3).
- (30) Notification and witnessing of plugging (OAC 165:10-11-4).
- (31) Plugging and plugging back procedures (OAC 165:10-11-6).
- (32) Plugging record (OAC 165:10-11-7).
- (33) Review of environmental permit applications (OAC 165:5-1-15 through OAC 165:5-1-19)
- (34) Response to citizen environmental complaints (OAC 165:5-1-25 through OAC 165: 5-1-30).
- (35) Contempt (OAC 165:5-19-1 through OAC 165:5-19-2).

[Source: Amended at 27 Ok Reg 2128, eff. 7-11-10 (RM 201000003); Amended at 29 Ok Reg 950, eff. 7-1-12 (RM 201200005)]

From: Dorsey, Nancy [mailto:Dorsey.Nancy@epa.gov]

Sent: Wednesday, February 20, 2013 8:35 AM

To: Lori Wrotenbery

Cc: Ron Dunkin; Charles Lord; Tim Baker; Dellinger, Philip; Graves, Brian; Leissner, Ray

Subject: RE: Oklahoma Oil and Gas Program Permitting

Hi Lori,

Thank you for the clarification, I think your agency is in line with most with regard to hydraulic fracturing being covered under different sets of rules. The topic is certainly still under a lot of discussion. The crux will probably come down to whether or not the companies report if diesel is to be used in their upcoming operations, and by corollary how the appropriate agency handles that. With reference to the statutes, which part of your agency does regulate hydraulic fracturing using diesel?

Regards,
Nancy

From: Lori Wrotenbery [<mailto:L.Wrotenbery@occemail.com>]
Sent: Tuesday, February 19, 2013 5:58 PM
To: Dorsey, Nancy
Cc: Ron Dunkin; Charles Lord; Tim Baker
Subject: RE: Oklahoma Oil and Gas Program Permitting

Hi Nancy,

We have not sent a letter to Region VI, but I have commented in various GWPC meetings about how we might address the use of diesel in hydraulic fracturing operations in the future. The guidance being developed by EPA does not technically apply to states with primacy, but I have noted that when EPA issues its guidance, we will not be surprised if Region VI explores with us how our regulations for hydraulic fracturing address the different program elements outlined in the guidance.

Please note that the OCC rules that apply to injection wells do not apply to hydraulic fracturing operations. We regulate hydraulic fracturing operations under a different set of rules. The question for possible future discussion would be whether we need to make any adjustments in the rules or procedures for hydraulic fracturing operations to satisfy the requirements of SDWA § 1425. I do not anticipate that we would use our current rules and procedures for injection wells to regulate hydraulic fracturing operations.

Hope this explanation helps.

Lori

From: Dorsey, Nancy [<mailto:Dorsey.Nancy@epa.gov>]
Sent: Tuesday, February 19, 2013 2:43 PM
To: Tim Baker
Cc: Ron Dunkin; Lori Wrotenbery; Charles Lord
Subject: RE: Oklahoma Oil and Gas Program Permitting

Thanks Tim,

I knew Charles was going to be out, which is the main reason I also copied you. There was a follow-up clarification of sorts, saying the gentleman didn't quite get the comment correct, but I figured going to the source was the wisest course of action.

Thanks again,
Nancy

From: Tim Baker [<mailto:T.Baker@occemail.com>]
Sent: Tuesday, February 19, 2013 1:49 PM
To: Dorsey, Nancy
Cc: Ron Dunkin; Lori Wrotenbery; Charles Lord
Subject: RE: Oklahoma Oil and Gas Program Permitting

I do not recall any letter to Region VI on the use of diesel for fracture treatment. It is our understanding that the use of diesel for fracture treatment is not exempt from the UIC program and therefore anyone that desires to use diesel as their fracture treatment fluid would be required to file under the UIC program. This has been our response to anyone who has asked. In addition we have had no requests to use diesel.
If you have any questions, let me know. Charles is out today.

From: Dorsey, Nancy [<mailto:Dorsey.Nancy@epa.gov>]
Sent: Tuesday, February 19, 2013 12:27 PM

To: Charles Lord; Tim Baker
Subject: FW: Oklahoma Oil and Gas Program Permitting

Hi Charles and Tim,

I do not recall anything about a letter from you all on diesel hydrofracturing permits. Did Kyle (whoever he or she is) misunderstand Lorie?

Thanks,
Nancy

From: Bierschenk, Arnold
Sent: Tuesday, February 19, 2013 11:57 AM
To: Carey, Robert Kyle; Graves, Brian
Subject: RE: Oklahoma Oil and Gas Program Permitting

Well, you won't hear much from me because this is the first I have heard of it. Brian forwarded this to the Oklahoma program manager who is not currently at her desk. If she provides any information, I will bring it up.

Arnold

From: Carey, Robert Kyle
Sent: Tuesday, February 19, 2013 11:27 AM
To: Graves, Brian; Bierschenk, Arnold
Subject: Oklahoma Oil and Gas Program Permitting

Hi Brian and Arnold,

Today on the Implementation call we would like to discuss where states have taken action in respect to permitting diesel fuels HF under the Class II program. I have heard all of this third hand so forgive me if I mischaracterize what OK has put forward. Laurie Rotenberry has stated that OK's rule updates would allow it permit DFHF while meeting the Class II requirements and has sent a letter to R6 EPA giving more detail. It would be good for the group to hear your thoughts on this.

Thank you

- Kyle

Kyle Carey
Underground Injection Control Program
U.S. EPA Office of Water
1200 Pennsylvania Ave.
Washington, DC 20460
MC 4606